



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

ERIC VANDERWERFF DC
615 NORTH O'CONNOR ROAD SUITE 12
IRVING TX 75061

Respondent Name

LIBERTY MUTUAL FIRE INSURANCE

Carrier's Austin Representative Box

Box Number 01

MFDR Tracking Number

M4-11-3192-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On May 3rd, 2010 the transcribed conversation that follows took place regarding a pre-authorization request submitted for [Claimant]. As you will read, Dr. Karcher, the peer review doctor assigned to the request, verbally approved the written PT request as-is, with the only modification offered to Dr. VanderWerff (the Requestor) being 'up to four modalities' per session, out of the five modalities that Dr. VanderWerff originally requested. However, when Liberty Mutual sent the written approval letter, it only provided for approval of THREE sessions, and only allowed up to THREE UNITS of treatment per session. This was totally contrary to the conversation between Dr. VanderWerff and the peer review doctor." "We have made multiple attempts to resolve this issue by telephone, and were initially told that it would be escalated and that we would receive a call back. We waited weeks for this to happen, all the while still treating this patient according to the verbal contract provided by Dr. Karcher."

Amount in Dispute: \$2517.52

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "134.600(c)(1) states that the request must be filed (date MDR receives the request) 'no later than one year after the date(s) of service in dispute.' DWC received this request on 5/20/2011 therefore dates of service 5/12/10, 5/13/10, 5/17/10 and 5/19/10 are not eligible for Medical Dispute Resolution." "A copy of the provider's request for preauthorization dated 4/27/10 is attached showing that it was faxed to Liberty Mutual's UM Department. The case was referred to MRIOA by Liberty Mutual for peer review. A copy of that report is also attached which documents the reviewer's attempts to contact the provider prior to issuing the determination. 134.600(o)(1) states that the requestor 'may within 15 working days of receipt of a written initial denial request the carrier to reconsider the denial and shall document the reconsideration request'." "After reviewing the preauthorization determination letter, if not satisfied with the decision, the provider should submit a request for reconsideration to the carrier. We have no record of a request for reconsideration. A change in the

preauthorized number and frequency of visits or in procedures authorized would have been documented in an additional determination letter which would have been issued 'within five working days of receipt of a request for reconsideration...' per 134.600(o)(2)(a)."

Response Submitted by: Liberty Mutual Insurance Co., 2875 Browns Bridge Road, Gainesville, GA 30501

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 12, 2010	Physical Therapy Services – CPT Codes 98941, 97112-59-GP	\$116.56	\$ 0.00
May 13, 2010	Physical Therapy Services – CPT Codes 98941, 97112-59-GP	\$116.56	\$0.00
May 17, 2010	Physical Therapy Services – CPT Codes 98941, G0283-GP	\$93.00	\$0.00
May 19, 2010	Physical Therapy Services – CPT Codes 98941, 97112-59-GP	\$365.84	\$0.00
May 20, 2010	Physical Therapy Services – CPT Codes 98941, G0283-GP	\$365.04	\$0.00
May 24, 2010	Physical Therapy Services – CPT Codes 98941, G0283-GP	\$365.04	\$0.00
May 26, 2010	Physical Therapy Services – CPT Codes 98941, G0283-GP	\$365.04	\$0.00
May 27, 2010	Physical Therapy Services – CPT Codes 98941, G0283-GP	\$365.04	\$0.00
June 9, 2010	Physical Therapy Services – CPT Codes 98941, 97112-59-GP	\$365.84	\$0.00
TOTAL		\$2517.52	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.600, requires preauthorization for specific treatments and services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated June 20, 2010

- 42, Z710-The charge for this procedure exceeds the fee schedule allowance.
- 39, X388-Pre-authorization was requested but denied for this servicer per DWC rule 134.600.
- 150, Z652-Recommendation of payment has been based on a procedure code which best describes services rendered.

Explanation of benefits dated July 15, 2010

- 39, X388-Pre-authorization was requested but denied for this servicer per DWC rule 134.600.
- 150, Z652-Recommendation of payment has been based on a procedure code which best describes services rendered.

Explanation of benefits dated July 16, 2010

- 39, X388-Pre-authorization was requested but denied for this servicer per DWC rule 134.600.
- 150, Z652-Recommendation of payment has been based on a procedure code which best describes services rendered.

Explanation of benefits dated September 20, 2010

- 42, Z710-The charge for this procedure exceeds the fee schedule allowance.
- 39, X388-Pre-authorization was requested but denied for this servicer per DWC rule 134.600.

- 150, Z652-Recommendation of payment has been based on a procedure code which best describes services rendered.
- X598-Claim has been re-evaluated based on additional documentation submitted; no additional payment due.

Issues

1. Was the dispute timely filed in accordance with 28 Texas Administrative Code §133.307?
2. Did the requestor obtain preauthorization approval for the disputed physical therapy services?
Is the requestor entitled to reimbursement?

Findings

1. Per 28 Texas Administrative Code §133.307(c)(1)(A), "Requests. Requests for medical dispute resolution (MDR) shall be filed in the form and manner prescribed by the Division. Requestors shall file two legible copies of the request with the Division. (1) Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The request for medical fee dispute resolution was received on May 20, 2011. There is no evidence that any issues identified in subparagraph (B) existed in this dispute; therefore, the one year filing deadline is applicable to this dispute. Based upon 28 Texas Administrative Code §133.307(c) dates of service May 12, 2010 through May 19, 2010 are not eligible for review and will not be considered further in this decision.

2. Per 28 Texas Administrative Code §134.600(p)(5)(A), the non-emergency healthcare that requires preauthorization includes: "(5) physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels: (A) Level I code range for Physical Medicine and Rehabilitation, but limited to:

(i) Modalities, both supervised and constant attendance;

(ii) Therapeutic procedures, excluding work hardening and work conditioning."

On May 3, 2010, the requestor obtained preauthorization approval for three (3) sessions of physical therapy, codes 97110 and 97140.

Per 28 Texas Administrative Code §134.600(q) "The health care requiring concurrent review for an extension for previously approved services includes: (3) physical and occupational therapy services as referenced in subsection (p)(5) of this section."

The Division finds that dates of service May 20, 2010 through June 9, 2010 exceeded the three (3) sessions that were preauthorized on May 3, 2010. The requestor did not submit documentation to support that these services were preauthorized per 28 Texas Administrative Code §134.600(p) or (q). As a result, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$ 0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

01/05/2012

Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.